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HONEYWELL INTERNATIONAL INC.
PATENT SERVICES
101 COLUMBIA ROAD
P O BOX 2245
MORRISTOWN, NJ 07962-2245

EXAMINER	
JAKOVAC, RYAN J	

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BEFORE THE BOARD OF PATENT APPEALS

AND INTERFERENCES

Application Number: 10/782,519

Filing Date: February 18, 2004

Appellant(s): JUDD ET AL.

David N. Fogg

For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 07/21/2009 appealing from the Office action mailed 01/02/2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The Appellant's statement of the status of amendments after final rejection contained in the brief is incorrect.

An amendment after the Final Office Action dated January 2, 2009 was filed on March 2, 2009. No amendments to the claims were added. The examiner did not indicate that amendments were entered into the record. The examiner indicated that the request for reconsideration had been considered and but did not place the application in condition for allowance.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The Appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal:

1. European Patent Application EP 0 981 088 A1 to Paul Damian Tidwell. 02/23/2000.

2. US 7,437,408 to Schwartz. 06/10/2003.

3. US 5,917,900 to Allison et al. 02/07/1997.

3. Applicant's Admitted Prior Art (Judd et al, US 2005/0181787, Paragraph [0021]).

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

2. Claims 1-8, 10-17, 19-27, 30-33, and 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over European Patent Application EP 0 981 088 A1 to Paul Damian Tidwell (hereinafter Tidwell) in view of US 7,437,408 to Schwartz et al (hereinafter Schwartz).

Regarding claim 1, Tidwell teaches a method comprising: a. receiving a message formatted according to Abstract Syntax Notation One (ASN.1); and b. decoding the received message based on a previously stored configuration information file (CIF) (Tidwell, Paragraph [0024-0025], The ASN.1 decoder/encoder program module decodes ASN.1 messages according to ASN.1 specification and a set of encoding rules (i.e. CIF).). Schwartz discloses wherein the CIF is a table-driven file (Schwartz, col. 15, line 15-65, the MAG module is a table driven and performs transformations on input data using a table structure.).

It would have been obvious to one of ordinary skill in the art at the time of invention to combine wherein the CIF is a table-driven file as taught by Schwartz with the method of Tidwell in order to implement transformation functions without undue delay (Schwartz, col. 15, line 35-56.).

Regarding claim 2, the combination of Tidwell and Schwartz teaches the method of claim 1, wherein the received message is formatted according to an ASN.1 compatible encoding rule (Tidwell, Paragraph [0034], Basic Encoding Rules and Packet Encoding Rules are used in forming an ASN.1 message.).

Regarding claim 3, the combination of Tidwell and Schwartz teaches the method of claim 1, wherein the CIF includes schema of the ASN.1 formatted message (Tidwell, Paragraph [0024-0025], The ASN.1 decoder/encoder program module receives and decodes ASN.1 messages according to ASN.1 specification and a set of encoding rules (i.e. CIF).).

Regarding claims 5, 30, and 35 the combination of Tidwell and Schwartz teaches the methods of claims 1 and 30, and the system of claim 35, further comprising: encoding a message formatted according to ASN.1, wherein encoding is based on the CIF (Tidwell, Paragraph [0025], The ASN.1 decoder/encoder program module encodes ASN.1 messages according to ASN.1 specification and a set of encoding rules (i.e. CIF) for transmission across the communication channel.), the CIF being a table-driven file (Schwartz, col. 15, line 15-65, the

MAG module is a table driven and performs transformations on input data using a table structure.); and transmitting the encoded message (Tidwell, [0025].).

Regarding claims 6, 31, and 36 the combination of Tidwell and Schwartz teaches the methods of claim 5 and 30, and the system of claim 35, wherein encoding the message is performed according to an ASN.1 compatible encoding rule (Tidwell, Paragraph [0034], Basic Encoding Rules and Packet Encoding Rules are used in forming an ASN.1 message.).

Regarding claim 8, 33, and 38 the combination of Tidwell and Schwartz teaches the method of claims 7 and 32, and the system of claim 37 wherein transmitting and receiving are performed according to a datalink protocol (Tidwell, Paragraph [0011-0015], ISDN is used in transmitting and receiving.).

Regarding claim 10, the combination of Tidwell and Schwartz teaches a system comprising: a means for receiving a message formatted according to Abstract Syntax Notation One (ASN.1) (Tidwell, Paragraph [0025], ASN.1 Message is received on the communication channel.); a memory for storing and accessing a configuration information file (CIF) (Paragraph [0042] and Fig. 6, Memory.), wherein the CIF is a table-driven file (Schwartz, col. 15, line 15-65, the MAG module is a table driven and performs transformations on input data using a table structure.); and a means for decoding the received message based on the stored CIF (See Tidwell, Paragraph [0025], The ASN.1 decoder/encoder program module decodes ASN.1 messages according to ASN.1 specification and a set of encoding rules (i.e. CIF).).

Regarding claim 11, the combination of Tidwell and Schwartz teaches the system of claim 10, wherein the received message is formatted according to an ASN.1 compatible encoding rule (Tidwell, Paragraph [0034], Basic Encoding Rules and Packet Encoding Rules are used in forming an ASN.1 message.).

Regarding claim 12, the combination of Tidwell and Schwartz teaches the system of claim 10, wherein the CIF includes schema of the ASN.1 formatted message (Tidwell, Paragraph [0024-0025], The ASN.1 decoder/encoder program module decodes ASN.1 messages according to ASN.1 specification and a set of encoding rules (i.e. CIF).).

Regarding claim 14, the combination of Tidwell and Schwartz teaches the system of claim 10, further comprising: a means for encoding a message formatted according to ASN.1, wherein encoding is based on the CIF; and a means for transmitting the encoded message (Tidwell, Paragraph [0024-0025], The ASN.1 decoder/encoder program module encodes ASN.1 messages according to ASN.1 specification and a set of encoding rules (i.e. CIF) for transmission across the communication channel.).

Regarding claim 15, the combination of Tidwell and Schwartz teaches the system of claim 14, wherein the means for encoding encodes the message according to an ASN.1 compatible encoding rule (Tidwell, Paragraph [0034], Basic Encoding Rules and Packet Encoding Rules are used in forming an ASN.1 message.).

Regarding claim 17, the combination of Tidwell and Schwartz teaches the system of claim 16, wherein transmitting and receiving are performed according to a datalink protocol (Tidwell, Paragraph [0011-0015], ISDN is used in transmitting and receiving.).

Regarding claim 19, the combination of Tidwell and Schwartz teaches a system comprising: a receiver configured to receive a message (Tidwell, Paragraph [0025], ASN.1 messages are received on the communications channel) formatted according to Abstract Syntax Notation One (ASN.1) using an ASN.1 compatible encoding rules (Tidwell, Paragraph [0024], Messages are formed according to ASN.1 compatible encoding rules.); a memory configured to store a configuration information file (CIF) (Tidwell, Paragraph [0042] and Fig. 6, Memory.), wherein the CIF is a table-driven file (Schwartz, col. 15, line 15-65, the MAG module is a table driven and performs transformations on input data using a table structure.); and a processor coupled to the receiver and the memory (Tidwell, Paragraph [0042] and Fig. 6, CPU.), the processor being configured to decode the received message based on the stored CIF (Tidwell, Paragraph [0025], The ASN.1 decoder/encoder program module decodes ASN.1 messages according to ASN.1 specification and a set of encoding rules (i.e. CIF).).

Regarding claim 20, the combination of Tidwell and Schwartz teaches the system of claim 19, wherein the ASN.1 compatible encoding rule includes at least one of Basic Encoding Rules (BER) or Packed Encoding Rules (PER) (Tidwell, Paragraph [0024], Basic Encoding Rules and Packed Encoding Rules are used to encode ASN.1 messages.).

Regarding claim 21, the combination of Tidwell and Schwartz teaches the system of claim 19, wherein the CIF includes schema of the ASN.1 formatted message (Tidwell, Paragraph [0025], The ASN.1 decoder/encoder program module decodes ASN.1 messages according to ASN.1 specification and a set of encoding rules (i.e. CIF).).

Regarding claim 23, the combination of Tidwell and Schwartz teaches the system of claim 19, wherein the processor comprises a component configured to encode a message formatted according to ASN.1 based on the CIF (Tidwell, Paragraph [0025], The ASN.1 decoder/encoder program module encodes ASN.1 messages according to ASN.1 specification and a set of encoding rules (i.e. CIF).).

Regarding claim 24, the combination of Tidwell and Schwartz teaches the system of claim 23, further comprising a transmitter configured to transmit the encoded message (Tidwell, Paragraph [0025], The ASN.1 decoder/encoder program module encodes ASN.1 messages according to ASN.1 specification and a set of encoding rules (i.e. CIF) for transmission across the communication channel.).

Regarding claim 25, the combination of Tidwell and Schwartz teaches the system of claim 23, wherein the component configured to encode encodes the message according to an ASN.1 compatible encoding rule (Tidwell, Paragraph [0025], The ASN.1 decoder/encoder

program module encodes ASN.1 messages according to ASN.1 specification and a set of encoding rules (i.e. CIF).).

Regarding claim 27, the combination of Tidwell and Schwartz teaches the system of claim 26, wherein the receiver and transmitter perform data reception and transmission according to a datalink protocol (Tidwell, Paragraph [0011-0015], ISDN is used in transmitting and receiving.).

Regarding claims 4, 13, and 22, the combination of Tidwell and Schwartz teaches the method of Claim 3, the system of claim 12, and the system of claim 22 wherein the CIF further includes a means for defining new messages without updating associated operational software (Tidwell, Paragraph [0024-0025], The ASN.1 decoder/encoder program module encodes ASN.1 messages according to ASN.1 specification and a set of encoding rules (i.e. CIF) for transmission across the communication channel.).

Regarding claims 7, 16, 26, 32, and 37 the combination of Tidwell and Schwartz teaches the system of claims 5, 14, 19, method of claim 30, and the system of claim 35, Tidwell does not expressly teach wherein the system is located on an aircraft. However, the applicant's admitted prior art in paragraph [0021] discloses that ACARS and ATN are well known in the art and that ACARS is the traditional aeronautical datalink protocol. As described above it would have been obvious to one of ordinary skill in the art at the time of the invention to use ACARS, and since

ACARS is an aeronautical protocol it would be obvious to use ACARS with the system on an aircraft.

Furthermore, Tidwell does not expressly disclose the system located on an aircraft. However, these differences are only found in the nonfunctional descriptive material and are not functionally involved in the steps recited. Thus, this descriptive material will not distinguish the claimed invention from the prior art in terms of patentability. See In re Gulack, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); In re Lowry, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to include the nonfunctional descriptive material with the claimed invention because such data does not functionally relate to the steps in the system claimed and because the subjective interpretation of the descriptive material does not patentably distinguish the claimed invention.

3. Claims 9, 18, 28, 34, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tidwell in view of Schwartz and further in view of Applicant's Admitted Prior Art (Judd et al, US 2005/0181787, Paragraph [0021]).

Regarding claims 9, 18, 28, 34, and 39 the combination of Tidwell and Schwartz teaches the method of claims 8 and 33 and the system of claims 17, 27, and 38, Tidwell does not teach but the Applicant's Admitted Prior Art teaches wherein the datalink protocol includes an aeronautical datalink protocol. The applicant's admitted prior art in paragraph [0021] discloses

that ACARS and ATN are well known in the art and that ACARS is the traditional aeronautical datalink protocol.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made combine wherein the datalink protocol includes an aeronautical datalink protocol as taught by the applicants admitted prior art with the system of Tidwell in order to provide the additional functionality and standards of ATN or ACARS.

4. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tidwell in view of Schwartz and further in view of US 5,917,900 to Allison et al (hereinafter Allison).

Regarding claim 29, the combination of Tidwell and Schwartz teaches the system of claim 27. Allison teaches wherein the datalink protocol includes the Transmission Control Protocol/Internet Protocol (TCP/IP) (Allison, Col. 3, line 45-60, The customer access point uses the ASN.1 format over TCP/IP).

Therefore it would have been obvious to one of ordinary skill in the art at the time of invention to combine wherein the datalink protocol includes the Transmission Control Protocol/Internet Protocol (TCP/IP) as taught by Allison with the system of the combination of Tidwell and Schwartz in order to be able to interface with a carrier's intelligent call routing system (Allison, Col. 3, line 45-60.).

(10) Response to Argument

In the Argument, Appellant argued in substance that

(A) In regards to claims 1-8, 10-17, 19-27, 30-33, and 35-38, the combination of Tidwell and Schwartz does not disclose:

"decoding the received message (i.e. the ASN.1 message) based on a previously stored configuration information file (CIF), wherein the CIF is a table-driven data file."

As to point **(A)**, The examiner respectfully disagrees. On page 6 of the Appeal Brief filed 07/21/2009, the Applicant states that (emphasis added):

> "Nothing in Tidwell or Schwartz, taken alone or together, teaches or suggests "decoding the received message based on a previously stored configuration information file (CIF), wherein the CIF is a table-driven data file." In addressing the above limitation, the Examiner has apparently equated ASN. 1 encoding/decoding rules with a configuration information file (CIF). Final Office Action (FOA) pg. 3. Although, a CIF is used to encode/decode messages using ASN. 1 compatible encoding rules, the encoding rules themselves are not a CIF. The encoding/decoding rules are encoding/decoding formats defined as part of an ASN. 1 standard which are implemented in a system communicating ASN. 1 defined messages."

Applicant admits that "a CIF is used to encode/decode messages" using the ASN.1 encoding/decoding rules.

Tidwell clearly discloses encoding/decoding ASN.1 messages according to rules as noted by the Applicant on pg. 6 of the Appeal Brief filed 07/21/2009. Applicant states:

> "Similarly, with respect to encoding rules, Tidwell states: ASN. 1 provides a standardized set of rules for representing instances of data structures which can then be encoded into a stream of bytes according to a predefined set of encoding rules. Although the most widely used encoding rules are the 'Basic Encoding Rules' or BER, it should be understood that other encoding rules, e.g., Packed Encoding Rules (PER), may also be used. Tidwell Para. [0024]."

Applicant argues that while Tidwell implements encoding/decoding rules, these functions are implemented through such things as source code ("In contrast to implementing the encoding/decoding rules in source code, the present application implements the encoding/decoding rules using a CIF." Pg. 7, Appeal Brief, 07/21/2009.).

Applicant's specification is directed towards decoding received messages based on a previously stored configuration information file. The examiner disagrees that Tidwell does not disclose this function since Tidwell discloses decoding the received messages based on the encoding/decoding rules.

However, Applicant's claims are directed towards decoding the received message based on a previously stored configuration information file (CIF), **wherein the CIF is a table-driven data file**. Since it was unclear whether Tidwell inherently disclosed the CIF being a table-driven file, the Examiner has relied upon Schwartz which discloses a CIF which is a table driven file. In particular, col. 15, line 15-65 of Schwartz discloses a MAG module which is table driven and performs transformations on input data using a table structure.

(**B**) Applicant argues in summary that neither Tidwell nor Schwartz discloses a CIF that is a table driven data file.

As to point (**B**), The Examiner respectfully disagrees. As described above, at least col. 15-16 of Schwartz discloses a CIF which is table driven. The MAG module of Schwartz is table driven and performs transformations on input data using a table structure. The MAG module performs the equivalent functions of the CIF as claimed.

Applicant argues that the CIF defines what actions are to be taken with the message. Applicant argues that Schwartz is used to parse the message (Pg. 8, Appeal Brief, 07/21/2009). The Examiner contends that parsing the message based on the specification of the MAG module is equivalent to defining the actions to be taken with a message. The message is parsed (i.e. action is taken) based on the definition from the specification. Nevertheless the Applicant is arguing features not claimed since the Applicants claims are directed towards "decoding the received message based on a previously stored configuration information file (CIF), wherein the CIF is a table-driven data file", and the combination of Tidwell and Schwartz discloses these limitations as described above.

(**C**) In regards to claims 9, 18, 28, 34, and 39, Applicant argues that these claims are not obvious over Tidwell in view of Schwartz and further in view of Applicant's Admitted Prior art.

As to point (**C**), Applicant relies on the same arguments provided above. The Examiner respectfully disagrees for the same reasons provided above.

(**C**) In regards to claim 29, Applicant argues that this claim is not obvious over Tidwell in view of Schwartz and further in view of Allison et al.

As to point (**C**), Applicant relies on the same arguments provided above. The Examiner respectfully disagrees for the same reasons provided above.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this Examiner's answer.

Respectfully submitted,

/Ryan Jakovac/

Examiner, Art Unit 2445

/Larry D Donaghue/

Primary Examiner, Art Unit 2454

Conferees:

/VIVEK SRIVASTAVA/

Supervisory Patent Examiner, Art Unit 2445

/Larry D Donaghue/

Primary Examiner, Art Unit 2454